S.B. Civil Writ Petition No.1946/05
Smt. Nooro Vs. State & Anr.

Date of Order : 19/04/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Rajneesh Gupta, for petitioner
Mr. Arjun Singh, Addl. G.A.

Instant petition was initially filed by widow Smt. Nooro w/o late Shri Kale Khan who served as LDC in the respondent department and after he retired from service he was a regular pensioner upto February, 1972. Husband of Smt. Nooro died on 15th March, 1974 and at that point of time there was no scheme for grant of family pension to the widow of deceased. The State Government vide order dt.18th July, 1988 [Ann.R/2] introduced the scheme for the first time for grant of family pension which was made effective w.e.f. 1st April, 1988. Under the said scheme formality has been provided which one has to fulfil for release of family pension. Except a legal notice served by the petitioner Smt. Nooro through his counsel Ann.4. dt.28th February, 2005, there is no material available on record in support of submitting any application for release of family pension in terms of order dt.18th July, 1988 [Ann.R/2]. During pendency of writ petition, she also expired on 15th March, 2005 and application was filed for taking her legal heirs on record which was allowed by this court on 18th July, 2005. But, I may add at this stage that there was no

occasion available to seek verification since it was proceeded on mere application filed claiming themselves to be legal heirs of late Smt. Nooro which is always open for the Government to take legal recourse available under law for their satisfaction.

This has not been disputed that Smt. Nooro became entitled for grant of family pension in terms of dt.18th July, 1988 [Ann.R/2] and only objection raised by the respondents in their reply is that no such application was submitted by her for release of family pension in compliance of the order referred to supra.

In my opinion, for making compliance of the order Ann.R2, formalities have to be complied with by the incumbent concerned, but once notice was served by her and she has approached this court by filing writ petition, certainly that itself shows that she is claiming family pension on account of her late husband who was a pensioner under the government in terms of order dt.18th July, 1988 [Ann.R/2]. Since entitlement otherwise has not been disputed by the respondents and she died on 15th March, 2005, her right to get family pension became due from 1st April, 1988 to 15th March, 2005 under the circular referred to supra.

Accordingly, the writ petition stands allowed. The respondents are directed to compute the payment towards

family pension to which she was entitled for under order dt.18th July, 1988 [Ann.R/2] from 1st April, 1988 to 15th March, 2005, but it should be released after due satisfaction of the releasing authority about actual claimants claiming themselves to be legal heirs of late Smt. Nooro and only thereafter, the said payment be released in accordance with law.

[Ajay Rastogi],J.

FRB